

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMES E. McCOY,)	
Plaintiff)	
)	
vs.)	Civil Action No. 07-515
)	Judge Nora Barry Fischer/
JEFFREY BEARD, Commissioner of)	Magistrate Judge Amy Reynolds Hay
Corrections; GERALD ROZUM,)	
Superintendent S.C.I. Somerset; PRISON)	
HEALTH SERVICES; DR. R. McGRAPH,)	
Physician at S.C.I. Somerset; E. SIMKINS,)	
Physicians Assistant at S.C.I. Somerset;)	
Individually and in their Official capacities,)	
Defendants)	

ORDER

AND NOW, this 12th day of August, 2008, after the Plaintiff, James E. McCoy, filed an action in the above-captioned case, and after Defendants filed Motions to Dismiss, and after a Report and Recommendation was filed by the United States Magistrate Judge giving the parties until July 28, 2008 to file written objections thereto, and no objections having been filed, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that the motion to dismiss filed by the DOC Defendants, Dkt. [67], is granted.

IT IS FURTHER ORDERED that the motion to dismiss by the Medical Defendants, Dkt. [70], is denied.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules

of Appellate Procedure, if the parties desire to appeal from this Order they must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed.R.App.P.

s/Nora Barry Fischer
NORA BARRY FISCHER
United States District Judge

cc: Honorable Amy Reynolds Hay
United States Magistrate Judge

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